UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

* * *

JUAN E. MANZUR,
 	
               Petitioner,
 	
   v.
 	
NEVADA ATTORNEY GENERAL, *et al.*,
 	
               Respondents.
	Case No. 3:16-cv-00630-MMD-VPC
	
	ORDER

This case is a petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254, by Juan E. Manzur, a Nevada prisoner. Manzur submitted his habeas petition for filing on November 1, 2016 (ECF No. 1-1). He has paid the filing fee (ECF No. 5).

The Court has reviewed Manzur's habeas petition pursuant to Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts.

Manzur's habeas petition is subject to dismissal on the ground that it is a successive habeas petition, and Manzur has not obtained from the court of appeals the permission required to file such a successive petition.

Manzur's petition in this case challenges his conviction entered in April 2004 in the state district court in Clark County, Nevada. (*See* Petition for Writ of Habeas Corpus (ECF No. 1-1 at 1).)

The Court takes judicial notice of the proceedings in Case No. 2:07-cv-00384-JCM-RJJ, in this court. *See* Fed. R. Evid. 201. In that case, as in this case, Manzur challenged his April 2004 Clark County conviction (the conviction was in Case No. C191598 in Nevada's Eighth Judicial District Court). (*See* Petition for Writ of Habeas

1   Corpus, ECF No. 1 in Case No. 2:07-cv-00384-JCM-RJJ at 1-2.) In Case No. 2:07-cv-

2   00384-JCM-RJJ, the court granted respondents' motion to dismiss, and dismissed the

3   action as untimely and barred by the statute of limitations. (*See* Order entered September

4   11, 2009, ECF No. 32 in Case No. 2:07-cv-00384-JCM-RJJ.) Judgment was entered that

5   same date. (*See* Judgment, ECF No. 33 in Case No. 2:07-cv-00384-JCM-RJJ.) The court

6   subsequently denied Manzur's motion for reconsideration. (*See* Order entered February

7   17, 2010, ECF No. 37 in Case No. 2:07-cv-00384-JCM-RJJ.) Manzur appealed, and on

8   December 20, 2010, the Ninth Circuit Court of Appeals denied Manzur a certificate of

9   appealability. (*See* Order of the Court of Appeals, ECF No. 43 in Case No. 2:07-cv-00384-

10 JCM-RJJ.)

11   The Court also takes judicial notice of the proceedings in Case No. 3:16-cv-00571-

12 MMD-VPC, in this court. *See* Fed. R. Evid. 201. In that case, as well, Manzur sought to

13 challenge his April 2004 conviction. In that case, Manzur did not pay the filing fee or apply

14 for *in forma pauperis* status, and the case was dismissed on that ground. The Court

15 notified Manzur about the requirement that he obtain permission from the court of appeals

16 to file a successive habeas petition.

17   A successive habeas petition may not be filed in this Court unless the petitioner

18 has obtained permission from the Ninth Circuit Court of Appeals. *See* 28 U.S.C. §

19 2244(b)(3)(A) ("Before a second or successive application permitted by this section is

20 filed in the district court, the applicant shall move in the appropriate court of appeals for

21 an order authorizing the district court to consider the application."); *see also McNabb v.*

22 *Yates*, 576 F.3d 1028, 1030 (9th Cir. 2009) (dismissal of petition on statute of limitations

23 grounds is a determination "on the merits" for purposes of 28 U.S.C. § 2244(b)). Manzur

24 has made no allegation or showing that he has obtained such permission from the court

25 of appeals; rather, Manzur alleges only that he has requested such permission from the

26 court of appeals. (*See* Petition for Writ of Habeas Corpus (ECF No. 1-1 at 2).)

27   It is therefore ordered that this action is dismissed.

28   It is further ordered that the petitioner is denied a certificate of appealability.

1   It is further ordered that the Clerk of the Court is to enter judgment accordingly.

2   It is further ordered that the Clerk of the Court is to add Adam Paul Laxalt, Attorney

3   General of the State of Nevada, to the docket for this case, as counsel for respondents.

4   The Clerk of Court is to serve respondents with a copy of the habeas corpus petition and

5   a copy of this order. Respondents need take no action with respect to this case.

6   DATED THIS 8th day of November 2016.

7

8   _____

9   MIRANDA M. DU
    UNITED STATES DISTRICT JUDGE

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28